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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/280,435	03/29/1999	FRANK OCTAAF VAN DER PUTTEN	902-578-2	5737

4955 7590 12/08/2003

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EXAMINER

CORRIELUS, JEAN B

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 12/08/2003

Handwritten number 21

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/280,435

Applicant(s)

VAN DER PUTTEN ET AL.

Examiner

Jean B Corrielus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11,28,29,35,39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11,28 and 29 is/are allowed.
- 6) ☒ Claim(s) 35,39 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 18.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

Applicant's submission filed on 8/27/03 has been entered.

Specification

2. A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because of the presence of so many corrections made to the original specification.

A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

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Claim Objections

3. Claims 1, 4, 6, 28, 35 and 39 are objected to because of the following informalities: claims 1, 28 and 35 need to be resubmitted in order to remove the bold face or dark sections. As per claim 1, lines 8-9, what does it mean by “available time frame in a **predetermined place**”? The same comment applies to claims 4, 6, and 39. Claim 7, “in an asynchronous way” should be “asynchronously”. Claim 9, “data stream” should be “transmitter”. Claim 28, line 1, “receiver” should be “A receiver”; line before the last, “said sending” should be “sending”. Claim 35, “transmitter” should be “A Transmitter”. Claim 39, line 1, “Method” should be “A method”. In addition, claim 28, is “the means for sending” the same as “the trigger sending means”? If so, the claim should be amended in such a way to replace “trigger sending means” by “means for sending”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 35 is rejected under 35 U.S.C. 102(e) as being anticipated by Fraser US patent No. 5,894,476.

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Fraser teaches means 103 for receiving a trigger signal "STRB" from a receiver 105 indicated when a data from said transmitter 103 is needed; means for providing a data signal 111 from said transmitter 103 to said receiver 105; Fraser further teaches that the transmitter 103 includes an internal buffer to buffer said data inherently until said trigger signal is received see col. 5, lines 1-10; note that at col. 4, lines 21-25, Fraser teaches that when there is no data to send, the device sends invalid data (idle data) on line 209.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser.

As applied to claim 35 above, Fraser discloses every feature of the claimed invention but does not explicitly teach that the receiver is an ADSL type receiver. However, coupling an ATM transmitter to an ADSL receiver is old and well established in the art. Given that, it would have been obvious to one skill in the art to implement such a network configuration in Fraser in order to satisfy system configuration requirements.

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Allowable Subject Matter

9. Claims 1-11, 28, 29 allowed. However, the claims must be amended if necessary to overcome the objection sets forth above.

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is (703) 305-4023.

The examiner can normally be reached on Monday-Thursday from 7:00 A.M. to 5:30 P.M.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.


Jean B. Corrielus

Primary Examiner

TC-2600

12-6-03